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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/781,858

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EXAMINER

PSITOS, ARISTOTELIS M

ART UNIT

PAPER NUMBER

2627

MAIL DATE

DELIVERY MODE

08/13/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/781,858	Applicant(s) OKAMOTO, MORIHIRO	
	Examiner Aristotelis M. Psitos	Art Unit 2627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 4-8, 10, 12, 14, 15, 17-19, 21, 22, 24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 9, 11, 13, 16, 20 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Applicant's response of 6/10/07 has been considered with the following results.

Specification

The amended title of the invention is not descriptive. There is no correction capability in the claimed invention. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Objections

Applicant is advised that should claim 20 be found allowable, claim 23 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

The examiner interprets both claims as being properly written to overcome any 101 "non-descriptive" subject matter problems – see MPEP 2106.1, sections I and II.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

1. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As amended, claim 1 already includes the subject matter of claim 9. It is therefore not clear what additional limitation this claim is attempting to define. Further response is respectfully requested.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 13 and 23 are rejected under 35 U.S.C. 101 because it is drawn to a program per se and hence is non statutory – Applicants attention is drawn to the available “interim guidelines” with respect to 101 statutory subject matter see MPEP section 2106.01 section II.

The following analysis is made.

Claim 13 although written in proper format (process/method) it is seeking protection of the processing program in the abstract as evidenced by claim 20. It neither has a practical application by any physical transformation, nor does it produce any useful and tangible result (as presented).

Claim 23 is interpreted as a METHOD CLAIM, i.e., although the claim recites in the first line a “record medium”, the remainder of the preamble and the remaining limitations of the claim lead the examiner to conclude that the claim is indeed a METHOD.

As a method it is also attempting to seek patent protect of the processing program in the abstract as evidenced by claim 20. Similarly it fails to have any practical application by any physical transformation, nor does it produce any useful and tangible result.

Response to Arguments

Applicant's arguments filed 6/10/07 have been fully considered but they are not persuasive.

The above noted claims fail for the reasons stated above, i.e., claim 13 and 23 fail to properly define statutory subject matter.

As far as the claims recite positive statutory limitations, the following rejections are made.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3,9,11,13,16,20 and 23 are rejected under 35 U.S.C. 102(a) as being anticipated by JP 2004-039008.

With respect to claim 1; this claim recites a processing apparatus – which is interpreted as a CPU (computer) inherently having the appropriately claimed "information acquiring unit", "recording-information acquiring unit", information determining unit", and the "information selecting unit". That is the computer/cpu has the capability/appropriate internal "units" operable so as to be the above claimed "units".

The ultimate paragraph in claim 1 describes the function of this "unit", such is found in the description of the submitted MAT (machine assisted translation) of JP 2004-039008 starting at paragraph 41. Hardware elements are described starting in paragraph 28.

The limitations of claims 2-3 are also found in the MAT thereof, starting at paragraphs 5-23, see also paragraphs 28-40.

With respect to claim 9, since the system can note/distinguish between a single and multimode session, this limitation is inherently present.

With respect to claim 11 see again the MAT starting at paragraph 45.

Claim 13 is the method analogous to the above apparatus of claim 1 and is met when the above system operates.

With respect to claim 16, the overall system of the JP document is interpreted as a "player" in that it can play cds. Hence it also must have an output unit, i.e., speakers.

Claims 20 & 23 are interpreted as duplicative, and since the above system operates in response to a set of instructions, these limitations are met.

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Response to Arguments

Applicant's arguments filed 6/10/07 have been fully considered but they are not persuasive.

The claims do not distinguish over the above noted art. There is no prohibition against the system performing the toc comparisons for a "type". In fact as interpreted/further identified in claim 1, whether a single or multi-session is present is indicative of "type of information".

3. Claims 1-3,9,11,13,16,20 & 23 are rejected under 35 U.S.C. 102(b) as being anticipated by either the "Cactus Data Shield 200" article, or the "Feurio Versions-History: Version 1.64" article submitted by applicant in the IDS of 7/21/04 or alternatively under 35 USC 103 as being obvious thereover.

As cited therein, the Cactus article at pages 7-8 discloses the function described in the ultimate paragraph of claim 1. The remaining "units" recited in the claim are inherently present in the overall system described by this article.

Similarly, the description of the Feurio system – cd-manager as recited on page 1 of the document also meets the above claimed limitation.

With respect to the remaining "units" claimed, since the system is to be used in a playback device, such "units" must be present – i.e., or no playback would be possible.

With respect to dependent claims 2,3,9 & 11 such limitations are inherently present.

With respect to claim 16, the overall system of these documents are interpreted as a "player" in that they can play cds. Hence it also must have an output unit, i.e., speakers.

Claims 20 & 23 are interpreted as duplicative, and since the above system operates in response to a set of instructions, these limitations are met.

Response to Arguments

Applicant's arguments filed 6/10/07 have been fully considered but they are not persuasive. Since, no specific argument against the above noted reference(s) have been presented, no further rebuttal is necessary.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hahn ('730) cited as illustrative of prior art systems in this environment.

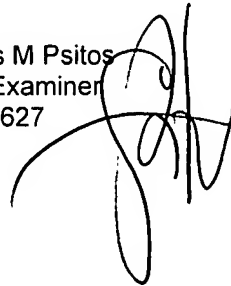
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aristotelis M. Psitos whose telephone number is (571) 272-7594. The examiner can normally be reached on M-Thursday: 6:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dwayne D. Bost can be reached on (571) 272-7023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Aristotelis M Psitos
Primary Examiner
Art Unit 2627

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a series of loops and a final vertical stroke.

AMP